

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1978

NO. **78-466**

Supreme Court, U. S.

FILED

SEP 19 1978

MICHAEL RODAK, JR., CLERK

STEVE MODLA,

Petitioner,

v.

EDWARD H, LEVI, et al,
CLARENCE M. KELLY, et al,

Respondents.

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT
OF APPEALS FOR THE NINTH CIRCUIT

STEVE MODLA, Pro Per
349 East 10th Drive
Mesa, AZ 85202

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AFFIDAVIT IN ITS ENTIRETY

STATE OF ARIZONA }
 } SS
County of Maricopa }

STEVE MODLA, being first duly sworn upon his oath,
deposes and says:

Petitioner, in Propia Persona, petitions for a
Writ of Certiorari in affidavit form - in its whole
entirety since it supports factual Constitutional
substantiations which has not been controverted
and cannot be legally controverted.

Steve Modla
STEVE MODLA

SUBSCRIBED AND SWORN to before me this 16th day
of September, 1978.

Hau Anne Godfrey
NOTARY PUBLIC

My commission expires:

8-10-79

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1978

NO. _____

STEVE MODLA,

Petitioner,

v.

EDWARD H. LEVI, et al,
CLARENCE M. KELLY, et al,

75-2460,
75-2461

Respondents.

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT
OF APPEALS FOR THE NINTH CIRCUIT

The Supreme Court deemed it necessary to establish -
and rightly so - that a government agency can be liable
for its wrongful vexacious conduct in depriving a
citizen of his civil rights, supporting most heavily
the Petitioner's many legal actions against the Justice
Department and its illegally subordinated agencies. To
once and forever halt its conspiracy and civil cruci-
fixion against Petitioner that he may truly enjoy his
human rights, his Constitutional rights.

Petitioner prays that a Writ of Certiorari issue to

review the Order of the Ninth Circuit entered 20 June 1978, denying Appellant Modla's 'Petition for Hearing' which it treated as a Petition for Rehearing.¹

OPINIONS BELOW

The opinion of the Ninth Circuit was rendered in a Memorandum Opinion filed 21 February 1978 and has not been published. A copy of that Opinion is attached hereto.

JURISDICTION

The judgments of the Ninth Circuit were entered on 21 February 1978. The Order denying Rehearing was entered on 20 June 1978. The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

QUESTIONS PRESENTED

Whether Petitioner's Constitutional rights extend to protection from retention and dissemination by the Justice Department of false information accusing him of criminal conduct.

Whether Petitioner is entitled to redress for his unjustified, but deliberate civil crucifixion

1. These cases were consolidated for opinion and disposition by the Ninth Circuit.

by authorities of the Federal Government.

**STATUTES, FEDERAL RULES
AND REGULATIONS INVOLVED**

No statutes or history on Watregate-type civil
crucifixion.

STATEMENT

Petitioner first learned of the existence of false criminal records of the Federal Bureau of Investigation during the taking of a deposition in a related lawsuit against the Chief of Police of Mesa, Arizona.

The deponent produced a copy of this most treacherous, inhuman conspiracy, an affidavit of admission of guilt and the admitted trigger to the aforesaid torture and total civil crucifixion, an admission of guilt by the deponent himself, the Chief of Police of Mesa, Arizona, whose subpoenaed records of false criminal charges were expunged by Frank B. Still, Jr., Special Agent of the Federal Bureau of Investigation, emphasizing most heavily aforesaid complete, total defamation of Petitioner's character, which has not been controverted and cannot be controverted.

That the United States Supreme Court further note that many, many Courts, for many, many years, have treated Petitioner as a criminal with Communist tendencies. Petitioner is not now and has never been a Communist. Subpoenaed records disseminated by the F.B.I. to the Chief of Police of Mesa, Arizona,

verify and substantiate this most profound miscarriage of justice as do the Freedom of Information records, among many other false records. Even personally visiting President Carter's quarters in Washington, D. C., exposing beseechingly in writing this continued harrassment by the Court itself in its long delayed Court action. Notably its own admission of continued conspiracy and collaberation with the Justice Department against Petitioner's honesty and integrity and courage. This continued factual civil crucifixion by the Court itself constitutes total denial to Petitioner's Constitutional civil rights and freedom, even denying Petitioner his day in Court, once more spells out and underscores loud and clear just one of the many proven and committed Watergate-type crimes against Petitioner by the Court for many, many years as well as the Federal Bureau of Investigation and many, many others crimes by the Federal Bureau of Investigation against Petitioner and in Petitioner's possession, through the Freedom of

Information Act and Disclosure request.

Petitioner further has concrete evidence of being beamed by the flashing of radiation by the Federal Bureau of Investigation against his already injured, and inflicted, sickened condition.

Let us practice at home President Carter's human rights.

As aforesaid postal employees and their heads, among others, illegally refrain from proper delivery of mail, at times two weeks late, and continue to return his mail, rather than deliver it to his proper address, above also evidenced by notarized affidavit of facts.

Heretofore getting to the gist and final punch of Petitioner's aforesaid damage and injury by the Appeals Courts itself, Petitioner quotes and defines appeals court's false and deadly Watergate type injury and damage to Petitioner's distin-

guished honesty and integrity in its entirety.

In Memorandum Appeals Court filed 21 February 1978, Petitioner quotes lines 27,28,29 and 30, page 1, as follows:

"We have difficulty grasping the essence of Modla's allegations. He is clearly disturbed that the Federal Bureau of Investigation kept a 'rap sheet' with a record of his arrest in Detroit, Michigan, many years ago."

Petitioner was never arrested, verifying affidavit of Special Agent of the Federal Bureau of Investigation, namely Frank B. Still, Jr. The false criminal charges were expunged on 7 November 1974. The last line of the affidavit clearly states that Petitioner's record by the Federal Bureau of Investigation has always been 'NO ARREST RECORD, F.B.I. Identification Division, signed by Frank B. Still, Jr., Special Agent of the Federal Bureau of Investigation.'

This type of intimidation in long-delayed Court action and continuing absurd action against

Petitioner constitutes a criminal crime by the Appeals Court itself. Flagrantly ignoring Constitutional law and order, recklessly, wantonly and deliberately conspiring and collab-
-erating with the Federal Bureau of Investigation, herewith and hereto substantiating its own admission of criminal guilt.

Man's human rights and Constitutional freedom; not only denied, but totally mocked, spit upon and criminally assaulted, time and time again, and as foresaid by the Court itself, including said perjury by the Arizona Superior Court at Phoenix, Arizona.

Especially astounding that over the years Petitioner is representing himself Pro Per for the third time before the United States Supreme Court.

That in itself should indicate to the Courts most movingly Petitioner's continued, exemplified, moral, by far the most excruciating ordeal, especially in light of Petitioner's man-made illness.

Heretofore reflecting Petitioner's plight fully and most humbly; Christ has risen. Humbly,

Petitioner has risen, seeking freedom, privacy and Constitutional liberty.

Petitioner is honest in word and in deed.

His business achievements are landmarks of monumental distinction. Said holy deeds exemplified by honest, positive action.

Steve Modla, self-imposed attorney - plaintiff - appellant - petitioner, Pro Per, and never as defendant.

Humbly proclaimed with affidavit of fact, as the most successful businessman in the whole of the United States,

Petitioner's denied Constitutional and human rights are Petitioner's most sacred rights.

As many, many Court briefs have no notably denoted.

That Petitioner achieved said miraculous miracles in spite of aforesaid many conspiracy charges by the Justice Department as well as false criminal charges.

As the late Justice Louis Brandeis said, "If the government breaks the law, there is no law."

To survive, aforesaid proven excruciating Watergate-type torture and Watergate undercover

crimes in itself is the greatest of all miracles. His business achievements in spite of said inhuman acts and suffering are no less than Christ's crucifixion.

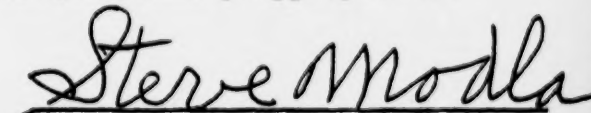
Granting this Writ of Certiorari automatically overcomes and restores to this humble Petitioner forevermore, his denied rights and restricted recovery to his long overdue health and well being.

REASONS FOR GRANTING THE WRIT

Civil crucifixion, as set forth in this Petition, is not our Constitutional way of life.

CONCLUSION

Petitioner solmenly prays that this honorable Court accept this most profound Petition in its entirety and forevermore restore his long denied and long overdue Constitutional rights with adequate compensation - Constitutionally appropriate.



STEVE MODLA, Pro Per
349 East 10th Drive
Mesa, AZ 85202

A P P E N D I X

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

| | | |
|----------------------|---|-------------|
| STEVE MODLA, | } | |
| | } | |
| Plaintiff-Appellant | } | |
| | } | |
| v. | } | NO. 75-2460 |
| | } | |
| EDWARD H. LEVI, | } | |
| | } | |
| Defendant-Appellee | } | |
| | } | |
| <hr/> | | |
| STEVE MODLA, | } | |
| | } | |
| Plaintiff-Appellant | } | |
| | } | |
| v. | } | NO. 75-2461 |
| | } | |
| EDWARD H. LEVI and | } | |
| CLARENCE M. KELLY, | } | |
| | } | |
| Defendants-Appellees | } | |
| | } | |
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MEMORANDUM

Appeals from Judgments of the District Court
for the District of Arizona

Before GOODWIN, WALLACE, HUG, Circuit Judges

Steve Modla appeals from grants of summary judgment against him in both of these companion cases. We affirm.

In 1973 Modla filed complaints against numerous

defendants. We affirmed judgments against him with respect to all but these Federal defendants, by Memorandum dated 16 May 1975 (Nos. 74-1417 and 73-3378).

We have difficulty grasping the essence of Modla's allegations. He is clearly disturbed that the Federal Bureau of Investigation kept a "rap sheet" with a record of his arrest in Detroit many years ago. However, we are uncertain of the legal theory on which he proceeds. Accordingly, we address ourselves to every theory that can arguably be inferred from his complaints and his briefs.

To the extent he argues a tort theory, it is a simple fact that the collection of arrest records by the F.B.I. is mandated by statute. 28 U.S.C. § 534. Therefore, the Attorney General and the Director of the F.B.I. are cloaked with official immunity. Barr v. Mateo, 360 U.S. 564 (1959).

To the extent that he argues a right-to-privacy theory, it is equally clear that this right does not extend to the publicizing, let alone passive

holding, of arrest records. Paul v. Davis, 424 U.S. 693 (1976).

To the extent that he argues only that summary judgment was not appropriate, the record clearly establishes that Modla failed to state any "genuine issue as to any material fact". Rule 56, Federal Rules of Civil Procedure. Summary judgment was most appropriate.

The judgments are affirmed.

FILED 21 February 1978

Emil E. Melfi, Jr.
Clerk, U.S. Court of Appeals

AFFIDAVIT OF SERVICE

STATE OF ARIZONA]
] SS
County of Maricopa]

STEVE MODLA, being first duly sworn upon his oath,
deposes and says:

1. That his is the Petitioner herein and appears
in Propia Persona;

2. That he served 3 copies of the foregoing by
depositing in the United States Post Office or mail
box, with first class postage pre-paid, addressed to:

Solicitor General
Department of Justice
Washington, D.C. 20530

and 3 copies of the foregoing to:

United States Attorney General
State of Arizona
5th Floor Federal Building
Phoenix, AZ 85025

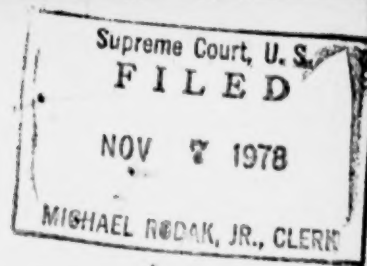
Steve Modla
STEVE MODLA

SUBSCRIBED AND SWORN to before me this 16th day
of September, 1978.

Anne Godfrey
NOTARY PUBLIC

My commission expires:
8-10-79

No. 78-466



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v.

GRIFFIN B. BELL, ET AL.

*ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT*

**MEMORANDUM FOR THE RESPONDENTS
IN OPPOSITION**

WADE H. MCCREE, JR.
*Solicitor General
Department of Justice
Washington, D.C. 20530*

In the Supreme Court of the United States

OCTOBER TERM, 1978

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v.

GRIFFIN B. BELL, ET AL.

*ON PETITION FOR A WRIT OF CERTIORARI TO
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THE NINTH CIRCUIT*

**MEMORANDUM FOR THE RESPONDENTS
IN OPPOSITION**

The judgment of the court of appeals was entered on February 21, 1978, and an order denying rehearing was entered on June 20, 1978. The time for filing a petition for a writ of certiorari was not extended and therefore expired on September 18, 1978. 28 U.S.C. 2101(c). The petition was filed on September 19, 1978, and is thus out of time. The time limit of 28 U.S.C. 2101(c) is jurisdictional. See *Toledo Scale Co. v. Computing Scale Co.*, 261 U.S. 399, 417-418 (1923).

The petition for a writ of certiorari should therefore be denied.

Respectfully submitted.

WADE H. MCCREE, JR.
Solicitor General

NOVEMBER 1978